

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THOMAS D. ROSENBERG,	)	
	)	FILED: JUNE 23, 2008
Plaintiff,	)	08 CV 3578
	)	JUDGE NORGLLE
vs.	)	MAGISTRATE JUDGE COX
BOARD OF MANAGERS OF 391-401	)	
PARK AVENUE CONDOMINIUM	)	
ASSOCIATION and ROGER BISHOP,	)	JH
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

The Board of Managers of 391-401 Park Avenue Condominium Association and Roger Bishop, defendants in the above entitled cause, seek removal to this court and, in support thereof, alleges as follows:

1. 391-401 Park Avenue Condominium Association is an unincorporated Illinois Condominium Association existing under the laws of Illinois with its principal place of business in Highland Park, Illinois, and is one of the defendants in this action.
2. Roger Bishop is a resident of Highland Park, Illinois, and is one of the defendants in this action.
3. This action was commenced against the defendants in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, on May 19, 2008. A copy of the complaint was served on Oleg Trifanov, President of the 391-401 Park Avenue Condominium Association on May 22, 2008, and served upon Roger Bishop on or about May 26, 2008. This notice is filed within 30 days after service of the complaint on the defendants.
4. This action is a civil case over which the United States District Court has original jurisdiction in that the complaint, a copy of which is attached and incorporated by reference into this notice, shows that the action arises under the Fair Housing Act, 42 U.S.C. Section 3601, et seq.
5. The defendants attach to this notice, copies of all process, pleadings, and orders that have been served on it.

WHEREFORE, the defendants pray that this cause be removed to the United States District Court for the Northern District of Illinois, Eastern Division.

By: /s/Eliot G. Schencker  
Attorney for Defendant

Eliot G. Schencker  
Michael C. Kim & Associates  
19 South LaSalle Street, Suite 303  
Chicago, IL 60603  
(312) 419-4000

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THOMAS D. ROSENBERG, )  
Plaintiff, ) FILED: JUNE 23, 2008  
vs. ) 08 CV 3578  
BOARD OF MANAGERS OF 391-401 )  
PARK AVENUE CONDOMINIUM )  
ASSOCIATION and ROGER BISHOP,) JUDGE NORGLIE  
Defendants. ) MAGISTRATE JUDGE COX  
  ) JH

**NOTICE OF FILING**

To: Steve H. Kim  
Thomas D. Rosenberg & Associates  
1051 West Belmont  
Chicago, Illinois 60657

Please take notice that on June 23, 2008, we filed with the United States District Court for the Northern District, Eastern Division, the attached **NOTICE OF REMOVAL**, a copy of which is herewith served upon you.

Michael C. Kim & Associates

By: /s/Eliot G. Schencker

Michael C. Kim  
Eliot G. Schencker  
Michael C. Kim & Associates  
19 S. LaSalle Street, Suite 303  
Chicago, Illinois 60603  
(312) 419-4000

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Notice of Removal was served upon the above named counsel by United States Mail delivery on the Twenty-third day of June, 2008.

/s/Eliot G. Schencker

FILED: JUNE 23, 2008

08 CV 3578

JUDGE NORGL

STATE OF ILLINOIS

)

MAGISTRATE JUDGE COX

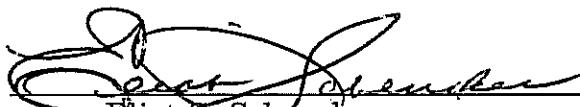
COUNTY OF COOK

)  
ss.

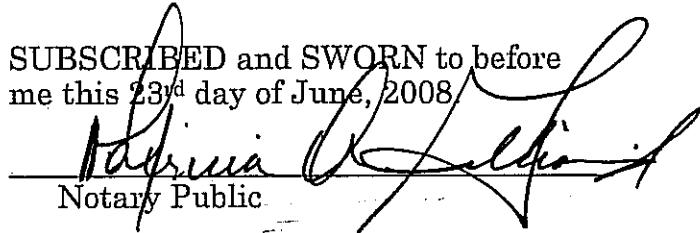
JH

Eliot G. Schencker, being first duly sworn on oath, deposes and says that:

1. I am the attorney for the defendants-petitioners in this cause;
2. I have prepared and read the petition for removal filed in this cause and have personal knowledge of the facts and matters contained in it; and
3. The facts and allegations contained in the petition for removal are true and correct.

  
Eliot G. Schencker

SUBSCRIBED and SWORN to before  
me this 23<sup>rd</sup> day of June, 2008

  
\_\_\_\_\_  
Notary Public



**STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT  
LAKE COUNTY  
SUMMONS (Action for \$5001 - \$50,000)**

(Name all parties)

Plaintiff Thomas D. Rosenberg

vs.

Defendant Board of Managers  
of 391-401 Park Avenue  
Condominium

THIS IS AN ARBITRATION CASE

No. 08 AR 660

Amount claimed \$ \_\_\_\_\_

TO EACH DEFENDANT:

THIS IS AN ARBITRATION CASE  
SUMMONS

First Duplicate

Oleg Trifonov, President  
391 Park Ave.  
Unit #201  
Highland Park, IL  
60035

YOU ARE HEREBY SUMMONED and required to appear before this Court at 18 N. County Street, Room No. C-307, Waukegan, Illinois, at 1:30 PM, on

JUN 19 2008 20 to answer the complaint in this case, a copy of which is hereto

attached. IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

**NOTICE:** Both plaintiff and defendant shall appear in court on the return date unless an appearance and answer, as well as any required fees and any other required responsive pleading thereto has been filed on or before the return date. In such case neither party need appear and the case will be heard at the Arbitration Center, 415 W. Washington Street, Waukegan, IL at 1:30 PM on the day of , 20 , by arbitration without further notice.

**NOTICE TO PLAINTIFF:**

Notwithstanding the aforesaid, if plaintiff fails to appear on the original return date or any continued date thereof, the case may be dismissed for want of prosecution without further notice.

**To the Officer:**

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service and not less than 3 days before the day for appearance. If service cannot be made, this summons shall be returned so endorsed.

This summons may not be served later than 3 days before the day for appearance.

WITNESS MAY 19 2008, 20

(Seal of Court)

Sally A. Coffey

Clerk of the Circuit Court

(Deputy)

(Plaintiff's attorney or plaintiff if he is not represented by an attorney)

Name Steve Kim, Thomas D. Rosenberg and Associates  
 Attorney for Steve Kim, Thomas D. Rosenberg and Associates  
 Address 1051 W. Schmid Rd.  
 City Chicago  
 Telephone 312-593-1823  
 LCAP-SUM-1199

**STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT  
LAKE COUNTY  
SUMMONS (Action for \$5001 - \$50,000)**

(Name all parties)

Plaintiff *Thomas D. Rosenberg*

vs.

Defendant *Roger Bishop*

THIS IS AN ARBITRATION CASE

No. *08AR 1,10*

Amount claimed \$ \_\_\_\_\_

THIS IS AN ARBITRATION CASE  
SUMMONS*1290 Scott Ave.  
Winnetka 60093*

## TO EACH DEFENDANT:

YOU ARE HEREBY SUMMONED and required to appear before this Court at 18 N. County Street, Room No.

*1:30 PM**C-307*, Waukegan, Illinois, at \_\_\_\_\_ m., on*JUN 19 2008**20*

to answer the complaint in this case, a copy of which is hereto attached. IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

**NOTICE:** Both plaintiff and defendant shall appear in court on the return date unless an appearance and answer, as well as any required fees and any other required responsive pleading thereto has been filed on or before the return date. In such case neither party need appear and the case will be heard at the Arbitration Center, 415 W. Washington Street, Waukegan, IL at 1:30 PM on the \_\_\_\_\_ day MFC 03 2008, 20 by arbitration without further notice.

**NOTICE TO PLAINTIFF:**Notwithstanding the aforesaid, if plaintiff fails to appear on the original return date or any continued date thereof, the case may be dismissed for want of prosecution without further notice.

## To the Officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service and not less than 3 days before the day for appearance. If service cannot be made, this summons shall be returned so endorsed.

This summons may not be served later than 3 days before the day for appearance.

WITNESS

*MAY 19 2008*

(Seal of Court)

(Clerk of the Circuit Court)

(Deputy)

(Plaintiff's attorney or plaintiff if he is not represented by an attorney)

Name *Steve Kim, Thomas D. Rosenberg and Associates*Attorney for *Thomas D. Rosenberg*Address *1051 W. Belmont*City *Chicago*Telephone *312-542-1617*

LCAP-SUM-1199

①

FILED  
MAY 19 2008  
CIRCUIT CLERK

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 19<sup>TH</sup> JUDICIAL DISTRICT  
LAKE COUNTY

THOMAS D. ROSENBERG )

Plaintiff, )

BOARD OF MANAGERS OF 391-401  
PARK AVENUE CONDOMINIUM and  
ROGER BISHOP )

Defendants. )

Case No. 08AR 660

COMPLAINT

NOW COMES Plaintiff, THOMAS D. ROSENBERG, by and through his attorneys,  
THOMAS D. ROSENBERG AND ASSOCIATES, and complains of the Defendants, BOARD  
OF MANAGERS OF 391-401 PARK AVENUE CONDOMINIUM and ROGER BISHOP and  
in support thereof states as follows:

COUNT I  
BREACH OF FIDUCIARY DUTY

1. Plaintiff, Thomas D. Rosenberg, is the lawful owner of the property commonly known as 401 Park Avenue East, Unit 104, Highland Park, Illinois 60035.
2. Defendant, Board of Managers of 391-401 Park Avenue Condominium Association, (hereinafter "the Board") owe a fiduciary duty to unit owners.
3. Defendant, Roger Bishop became a member of the Board on or about March 31, 2005

and is a current member of the board.

4. Between March 31, 2005 and the date of the filing, Plaintiff, Thomas D. Rosenberg, has notified and complained numerous times to Mr. Bishop in his capacity as Board member concerning water seeping into his unit causing extensive damage and mold, which may be the result of a structural defect with the building.

5. Mr. Bishop and the Board have also been notified numerous times by Plaintiff that the continuing water damage is causing health hazards in the Plaintiff's unit.

6. The Board and its members have first-hand knowledge of the water damage and hazardous condition of Plaintiff's unit through several personal visits in June of 2005 and the numerous oral and written notices and reports from Plaintiff.

7. Defendants Board and Roger Bishop have willfully disregarded Plaintiff Thomas Rosenberg's repeated requests, both oral and written, to remedy the problem of the water damage and hazardous conditions.

8. As a direct result of Defendants' willful and purposeful failure to take the appropriate measures to remedy the water problem, Plaintiff's newly installed oak wood floor and sub-floor have buckled causing dangerous conditions, the growth of mold and rotting materials, and the inability to use interior and exterior doors.

9. As a direct result of failing to take prudent actions to remedy a possible structural defect with the building, the Board and Roger Bishop have breached their fiduciary duties to the unit owner, Plaintiff Thomas D. Rosenberg, pursuant to Section 605/18.4(q) of the Illinois Condominium Act.

10. WHEREFORE, the Plaintiff, THOMAS D. ROSENBERG, respectfully requests this Honorable Court for the following:

- A. Cause the Defendants to take all appropriate action to remedy any and all structural defects complained of by Plaintiff;
- B. Award Plaintiff all costs associated with repairing the hard wood floor that will have to be replaced, which the Plaintiff estimates to be in the amount over \$25,000;
- C. Place the Plaintiff's condominium assessments into an escrow account to be used toward the costs associated with the structural defects complained of by Plaintiff;
- D. Order the replacement of current members of the Board in conformance with the by-laws of the condominium association;
- E. Award Plaintiff reasonable attorney's fees and costs incurred in this matter; and;
- F. Grant such other relief as this Honorable Court deems appropriate and equitable.

COUNT II  
DISCRIMINATION

- 1-7. The Plaintiff re-adopts and re-alleges paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of Count II as if fully set forth herein.
8. The Plaintiff was a previous member of the Board.

9. As a former Board member, the Plaintiff has been subjected to unequal treatment.
10. An example of the unequal treatment, as stated in Count I, is the Plaintiff's constant complaints regarding the water seepage into his unit to the Defendants Board and Mr. Bishop which has fell on deaf ears.
11. Additionally, the Plaintiff has been illegally fined for various unsubstantiated violations.
12. The Defendants Board and Mr. Bishops' actions against the Plaintiff gives rise to intimidation, harassment and fostering a hostile environment in violation of the Fair Housing Act, 42 U.S.C. Section 3601, et seq.
13. As a direct and proximate result of the Defendants' discriminatory actions, the Plaintiff's newly installed oak wood floor and sub-floor have buckled causing dangerous conditions, the growth of mold and rotting materials, and the inability to use interior and exterior doors.
14. As a direct and proximate result of the Defendants' discriminatory actions, the Plaintiff has been damaged in the amount of \$200, the cost of the illegal fines.
15. WHEREFORE, the Plaintiff, THOMAS D. ROSENBERG, respectfully requests this Honorable Court for the following:
  - A. Cause the Defendants to take all appropriate action to remedy any and all structural defects complained of by Plaintiff;

FROM : LOIS C BISHOP WINNETKA IL60093 PHONE NO. : 18474415671

May. 27 2008 05:39PM PT

B. Award Plaintiff all costs associated with repairing the hard wood floor that will have to be replaced, which the Plaintiff estimates to be in the amount over \$25,000;

C. Place the Plaintiff's condominium assessments into an escrow account to be used toward the costs associated with the structural defects complained of by Plaintiff;

D. Either reimburse the Plaintiff or eliminate the illegal fines of \$200;

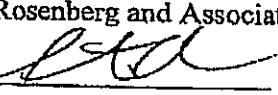
D. Order the replacement of current members of the Board in conformance with the by-laws of the condominium association;

E. Award Plaintiff reasonable attorney's fees and costs incurred in this matter; and;

F. Grant such other relief as this Honorable Court deems appropriate and equitable.

Respectfully submitted,

Thomas D. Rosenberg and Associates

By: 

Steve H. Kim, One of its Attorneys

Steve H. Kim  
ARDC#: 6277787  
Thomas D. Rosenberg & Associates  
1051 W. Belmont  
Chicago, IL 60657  
312-593-1823

FROM : LOIS C BISHOP WINNETKA IL60093 PHONE NO. : 18474415671

May. 27 2008 05:40PM PG

**Notice to Defendant**

- (a) This case will not be heard on the day for appearance specified on the reverse side, hereafter called the return day.
- (b) If the complaint is verified (sworn to), your answer must be verified.
- (c) If you have not obeyed this summons and filed a written appearance or answer before the return day, an order of default and judgement may be taken against you on the return day.

*Back of Page (1)*

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

THOMAS D. ROSENBERG, )  
Plaintiff/Petitioner, )  
v. ) Gen. No. 08 AR 660  
BD. OF MANAGERS OF 391-401 PARK AVE. )  
CONDOMINIUM ASSOCIATION and ROGER )  
BISHOP, )  
Defendants/Respondents )

FILED  
JUN 19 2008  
Suzanne Gaffett  
CIRCUIT CLERK

NOTICE OF FILING

To: Steve H. Kim  
Thomas D. Rosenberg & Associates  
1051 West Belmont  
Chicago, Illinois 60657

Please take notice that on June 19, 2008, we filed with the Circuit Court of Lake County, Illinois, the attached APPEARANCE, a copy of which is herewith served upon you.

Michael C. Kim & Associates

By:

Michael C. Kim  
Eliot G. Schencker  
Michael C. Kim & Associates  
19 S. LaSalle Street, Suite 303  
Chicago, Illinois 60603  
(312) 419-4000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Appearance was served upon the above named counsel by United States Mail delivery on the Nineteenth day of June, 2008.

Eliot G. Schencker

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

THOMAS D. ROSENBERG, )  
Plaintiff/Petitioner, )  
v. ) Gen. No. 08 AR 660  
BD. OF MANAGERS OF 391-401 PARK AVE. )  
CONDOMINIUM ASSOCIATION and ROGER )  
BISHOP, )  
Defendants/Respondents )

**APPEARANCE**

By an Attorney:

The undersigned, Eliot G. Schencker & Michael C. Kim hereby enter their appearance(s) on behalf of The Board of Managers of 391-401 Park Avenue Condominium Association and Roger Bishop in the above entitled cause.

By an individual pro se:

The undersigned, \_\_\_\_\_ hereby enters an appearance on behalf of myself in the above entitled cause.



Attorney/Pro Se for: 391-401 Park Ave. Condo and Roger Bishop  
Address: Michael C. Kim & Associates, 19 S. LaSalle Street, Suite 303  
City/State/Zip: Chicago, Illinois 60603  
Telephone: (312) 419-4000  
ARDC Nos. 6271429 & 1461303

FILED  
JUN 19 2008  
Eliot G. Schencker  
Michael C. Kim  
CIRCUIT CLERK

STATE OF ILLINOIS  
COUNTY OF LAKE

**FILED**

JUN 19 2008

*Laura G. Gatz*  
**CIRCUIT CLERK**

No. 08 A 2 660

*Rosenberg*  
Board of Managers  
of 391-401 Park Ave  
Condo. Assn + Roger  
Bishop

Plaintiff(s),

v.

Defendant(s),

*Agreed*  
ORDER

This cause coming to be heard upon the return date or a subsequent initial status hearing, and the Court having been fully advised of the status, IT IS HEREBY ORDERED that:

Plaintiff(s) is (are) granted additional time to effect service on unserved Defendant(s) \_\_\_\_\_, and the (return date) (status of location of Defendant) is rescheduled to \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ p.m.

Defendant(s) Board of Managers + Roger Bishop is (are) granted 28 days to answer or otherwise plead.

This case is rescheduled for arbitration on \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ am/pm at the Lake County Judicial Arbitration Center, 415 W. Washington Street, Ste. 106, Waukegan, IL 60085. The previous arbitration date of \_\_\_\_\_, 20\_\_\_\_\_, is stricken.

By agreement of the parties or for good cause shown, all parties are required to comply with Rule 222 Disclosure as follows:

All parties by \_\_\_\_\_, 20\_\_\_\_\_, or  
Plaintiff(s) by \_\_\_\_\_, 20\_\_\_\_\_,  
Defendant(s) by \_\_\_\_\_, 20\_\_\_\_\_,  
Cross/Counter parties by \_\_\_\_\_, 20\_\_\_\_\_.

Defendant(s) \_\_\_\_\_ is (are) in default and the case is continued for prove-up to \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ p.m. or judgment is entered against Defendant(s) on the verified complaint in the amount of \$\_\_\_\_\_ plus costs.

Any cross, counter and third party complaints shall be filed by \_\_\_\_\_, 20\_\_\_\_\_.  
 All written discovery shall be served by \_\_\_\_\_, 20\_\_\_\_\_. The parties shall schedule depositions and all other discovery activity so that all discovery shall be completed \_\_\_\_\_ days before the arbitration hearing.  
 The case is continued for status of pleadings to \_\_\_\_\_, 20\_\_\_\_\_.  
 Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ENTER: VALERIE BOETTE CECKOWSKI

Dated: June 19, 2008 \_\_\_\_\_ JUDGE

Prepared by: E. SCHAFERLICH, MICHAEL C. KIMMICKS.

19 S. LASALLE ST., STE 303  
CHICAGO, IL. 60603